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DETAINED

Attorney for Petitioner, Daniel James Cummins

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION

DANIEL JAMES CUMMINS

Petitioner,

vs.

MOISES BECERRA, Field Office Director,
ICE/San Francisco;
RON MURRAY Warden, Mesa Verde ICE
Processing Center;
KRISTI NOEM, Secretary of Homeland
Security;
PAMELA BONDI, Attorney General of the
United States

Respondents.

Case No. 1:25-cv-01853-DC-AC

**PETITIONER'S SUPPLEMENTAL
OPPOSITION TO RESPONDENTS'
MOTION TO DISMISS**

I. INTRODUCTION

Petitioner Daniel James Cummins respectfully submits this Supplemental Opposition pursuant to the Court's January 20, 2026, Order. Respondents argue that the Petition is moot because a bond hearing was held and Petitioner's subsequent motion to enforce habeas relief was denied. That argument misunderstands both the nature of this habeas action and the Court's continuing jurisdiction over Petitioner's unresolved constitutional claims.

1 This Petition has never been limited to bond alone. At its core, it challenges ongoing
2 medical neglect and continued civil detention that poses a serious risk of death or permanent
3 injury, in violation of the Fifth Amendment. Those claims remain live, unresolved, and
4 increasingly urgent.

5
6 Critically, since the bond hearing, Petitioner's medical condition has continued to
7 deteriorate. ICE has failed to provide overdue diagnostic imaging essential to monitoring his
8 progressive lung disease and has delayed production of medical records necessary for judicial
9 review. These facts independently defeat mootness and warrant continued habeas review.

10 **II. THE PETITION IS NOT MOOT**

11 12 **A. The Bond Hearing Did Not Resolve Petitioner's Medical Neglect Claims**

13
14 Respondents' mootness argument rests on the premise that the Court's December 23,
15 2025, Order required only a bond hearing and that the holding of such a hearing extinguished the
16 habeas petition. That is incorrect.

17
18 While the Court ordered a constitutionally compliant bond hearing, the Petition also
19 alleges that Petitioner's continued detention in the face of untreated, life-threatening illness
20 violates substantive due process, independent of any bond determination. Those claims were not
21 adjudicated by the Immigration Judge and cannot be resolved in immigration court.

22
23 Courts within the Ninth Circuit have consistently held that habeas claims challenging
24 detention based on medical danger or constitutional infirmity are not mooted by administrative
25 custody proceedings. See:

- 26 • *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (civil detention must bear a
27 reasonable relation to its purpose and cannot be constitutionally excessive);
- 28 • *Jones v. Blanas*, 393 F.3d 918, 934 (9th Cir. 2004) (civil detainees are

1 entitled to heightened constitutional protection).

2
3 Because Petitioner's medical neglect claims remain unresolved, the Petition is not moot.

4
5 **III. EXHAUSTION DOES NOT BAR HABEAS REVIEW WHERE ONGOING**
6 **MEDICAL HARM AND RISK OF DEATH EXIST**

7 Respondents suggest that Petitioner was required to exhaust additional administrative
8 remedies before seeking federal relief. That argument fails where, as here, the harm is ongoing
9 and potentially fatal.

10
11 The Ninth Circuit has repeatedly recognized that exhaustion is not required where it
12 would be futile or where delay risks irreparable harm. See:

- 13 • Nadarajah v. Gonzales, 443 F.3d 1069, 1075 (9th Cir. 2006);

14
15 Petitioner's medical claims cannot be meaningfully addressed in immigration court.
16 Immigration Judges lack authority to order medical treatment, diagnostic testing, or release based
17 on medical neglect. Continued detention while exhausting administrative remedies would expose
18 Petitioner to precisely the harm habeas review exists to prevent.

19
20 **IV. ONGOING MEDICAL NEGLECT CONSTITUTES IRREPARABLE HARM**

21
22 Petitioner suffers from Chronic Pulmonary Aspergillosis, a rare and progressive lung
23 disease resulting from Valley Fever exposure. This condition requires continuous monitoring,
24 including periodic CT imaging and specialist evaluation.

25 **New Evidence of Ongoing Neglect**

26
27 In a supplemental declaration filed concurrently with this opposition, Petitioner confirms:
28

- His last CT scan occurred on August 26, 2025; before he was detained by ICE.
- Follow-up imaging was medically required by November 2025;
- As of late January 2026, no CT scan has been performed, despite repeated requests;
- ICE medical staff have been notified of the lapse;
- ICE has delayed production of Petitioner's medical records despite notice of a February 3, 2026, federal court deadline.

This is not past harm, it is continuing medical neglect.

Courts routinely find irreparable harm where detainees face worsening medical conditions without adequate care. See *Hernandez Roman v. Wolf*, 977 F.3d 935, 944–45 (9th Cir. 2020);

No monetary damages can remedy permanent lung damage or death.

V. THE COURT RETAINS AUTHORITY TO ORDER RELIEF

This Court retains habeas jurisdiction to remedy unconstitutional detention. See 28 U.S.C. § 2241; *Boumediene v. Bush*, 553 U.S. 723, 779 (2008).

Where an agency fails to provide constitutionally adequate procedures and continues detention that endangers life, federal courts may order release or other appropriate relief. See *Zadvydas*, 533 U.S. at 690.

VI. CONCLUSION

Petitioner's habeas claims are not moot. His detention continues to violate due process due to unresolved medical neglect and the failure of DHS to justify continued confinement with

1 constitutionally sufficient evidence. Each day of detention compounds the risk of irreversible
2 harm.

3
4 Petitioner respectfully requests that the Court deny Respondents' Motion to Dismiss and
5 allow this habeas action to proceed.

6
7 Date: February 3, 2026

8
9 /S/RobertG.Cummings
Robert G. Cummings
Attorney for Petitioner
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**SUPPLEMENTAL DECLARATION OF
DANIEL JAMES CUMMINS**

DECLARATION OF DANIEL JAMES CUMMINS

I, Daniel James Cummins, declare as follows:

1. I am the Petitioner in this habeas corpus proceeding and submit this supplemental declaration to update the Court regarding ongoing medical neglect while in ICE custody.

2. I suffer from Chronic Pulmonary Aspergillosis resulting from Coccidioidomycosis (Valley Fever). This condition requires continuous monitoring

1 through diagnostic imaging, including regular CT scans, as well as evaluation by
2 infectious disease and pulmonary specialists.

3 3. My last CT scan of my lungs was performed on or about August 26, 2025.
4 Prior being detained by ICE. My treating physicians advised that follow-up imaging was
5 required approximately three months later, by the end of November 2025, to assess
6 disease progression.

7 4. As of the date of this declaration, no follow-up CT scan has been
8 performed, despite my repeated requests and despite medical staff being aware that I am
9 now more than two months overdue for this critical imaging.

10 5. On or about January 26, 2026, after consulting with my attorney, I formally
11 requested my complete medical records from ICE medical staff. In that request, I
12 specifically stated that my attorney advised the records were time-sensitive due to a
13 federal court deadline of February 3, 2026, and I requested that the records be emailed or
14 faxed to my counsel.

15 6. I received a response stating only that I would "receive my records soon."
16 No timeline was provided, and my records have not yet been produced to me or my
17 attorney.

18 7. The failure to timely provide my medical records, combined with the
19 failure to perform overdue CT imaging, has prevented my treating specialists from
20 evaluating my condition and has impaired my ability to present medical evidence to the
21 federal court.

22 8. My symptoms continue to worsen while in detention, including difficulty
23 breathing, chest pain, extreme fatigue, and fear of permanent lung damage or death
24 without appropriate medical intervention.

25 9. ICE's continued failure to provide necessary diagnostic testing and to
26 timely release my medical records places my health and life at serious risk.

27 I declare under penalty of perjury that the foregoing is true and correct.
28

Executed on February 3, 2026.

/S/Daniel James Cummins

Daniel James Cummins

Petitioner

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